

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF KOOTENAI HEIGHTS WATER) **CASE NO. KHW-W-05-01**
SYSTEM, INC. FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY) **ORDER NO. 30334**
)

On August 22, 2005, Kootenai Heights Water System, Inc. (Kootenai Heights, Company) filed an Application for a Certificate of Public Convenience and Necessity with the Idaho Public Utilities Commission (Commission). The Commission ordered that the Application be processed by Modified Procedure. Order Nos. 29877 and 29960. Commission Staff was the only party to file comments.

On September 1, 2006, the Commission issued a final Order granting Kootenai Heights a Certificate of Public Convenience and Necessity. Order No. 30122. The Commission also issued, on September 1, 2006, a Proposed Order regarding the rates, charges, rules, and regulations of the Company. On October 3, 2006, the Commission granted reconsideration of Order No. 30122, granting the Company's Certificate, based on the Company's objection to jurisdiction filed on September 22, 2006. After the submission of legal briefs by the parties, the Commission affirmed Order No. 30122, granting Kootenai Heights a Certificate and finding the Company to be a public utility subject to the Commission's jurisdiction. Order No. 30219. The Commission also directed the parties to conduct an informal prehearing conference, where they were to discuss the remaining issues relating to rates, charges, rules, and regulations, exploring any possibilities for agreement. *Id.*

The parties met on February 20, 2007, to conduct the informal prehearing conference and settlement discussions. The parties reached agreement on the outstanding issues and executed a Stipulation memorializing that agreement. The Stipulation was drafted so as to propose changes/additions to the Commission's Proposed Order issued on September 1, 2006.

With this Order the Commission accepts and approves the parties' Stipulation, as changes and additions to its previously issued Proposed Order for this matter. The Commission hereby changes and adopts the Proposed Order, establishing just and reasonable rates, charges, rules, and regulations for the Company as set forth below. *Idaho Code* §§ 61-301, 61-302, 61-303, 61-502, 61-503, and 61-623.

THE COMPANY'S APPLICATION

The Company submitted various supplemental documents with its Application including: a map of the proposed service area, a Water Service Agreement and Easement form, documents evidencing the incorporation of the Company, a copy of the contract with its Certified Operator, a copy of a Clarification-Modification of the Plat for Kootenai Heights, and a letter from the Department of Environmental Quality (DEQ) evidencing conditional approval of the as-built plans.

At the time of the Application the water system was in service with six residential customers connected to the system. Application at 2. The Company states that the system will ultimately serve 11 residential customers. *Id.* The requested service area for the water system consists of Lots 7-18 of Kootenai Heights, with the well located on Lot 10. Application at 1. The Company states that the cost to construct the system was \$83,500 including the value of Lot 10. Application at 2. The average monthly consumption for the entire system was reported as 31,000 gallons, and the Company states that billing was to start on October 1, 2005. *Id.* The Application states that proposed rates and charges, rules and forms are all contained within the Water Service Agreement submitted with the Application. *Id.*

The Water Service Agreement and Easement (WSA) states that the system was developed to provide water "to certain Lots in Kootenai Heights and for further development of additional land and lots in the sole discretion of the Water Provider." WSA at 1. The WSA further provides that each lot owner shall pay a hookup fee of \$5,000, and that rates will be \$40 per month up to 10,000 gallons, and \$4.00 per 1,000 gallons used over 10,000 gallons per month. WSA at 2. Each customer will be metered, with the cost of the meter and its installation paid by the Company. *Id.* The Agreement states that monthly rates will not be increased for the first five years. WSA at 2-3. Additionally, the Agreement states that monthly bills will not be sent, and the lot owner shall pay the monthly fee on the 1st day of each month. WSA at 3. Billings will be sent to customers twice a year, on or about May 1 and October 1, for the purpose of computing and billing any excess water usage over the allowed 10,000 gallons per month. WSA at 3-4.

DISCUSSION/FINDINGS

I. Rate Base

Based upon our review of the financial records and the historical relationship between the developer and the water company, we find that the Company is not entitled to recognize any rate base in the establishment of rates for two reasons. First, Commission Rule 103 for small water companies (Policies & Presumptions for Small Water Companies, IDAPA 31.36.01.103) establishes a presumption that capital invested in the water system by the developer is considered contributed capital and is excluded from rate base. Rule 103 states:

In issuing certificates for a small water company or in setting rates for a small water company, it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base.

Second, the Company has received contributions in the nature of hookup charges in the amount of \$55,000. The Company has indicated in the documentation filed with the Application that it incurred the following costs to develop the water system:

Well Installation	\$ 11,370
Distribution Lines	\$ 8,915
Well House	\$ 6,000
Pump, Pressure, Electrical	\$ 16,910
Engineering	\$ 1,800
Attorney Fees	<u>\$ 3,500</u>
Total	\$ 48,495

Additionally, the Company is claiming the current fair market value of the well lot at \$40,000. We find that the \$55,000 hookup fee contribution is an offset to the cost of the system. (\$48,495 plus any allocation of original cost for the well lot.) The well lot is approximately 1/5 of an acre (9,130 square feet), and it is very unlikely that the original cost of this parcel is more than the difference between the contributed hookup fees and the cost of the water system (\$55,000 less \$48,495 or \$6,505). Regardless of the cost, we find that the well lot is considered contributed capital under Rule 103.

We find that the hookup fees should be reflected as an offset to the plant-in-service account. Until new plant is added subsequent to and independent of owner development, plant-in-service and hookup fees will continue to offset each other such that there will be no rate base or depreciation expense to increase rates. We caution the Company that it is important to

correctly set these accounts up now so system capital costs can be properly reflected in future rates. We direct Staff to assist the Company to set these accounts up properly, and to properly book any future expansion if requested by the Company. To the extent the Company wants to continue collecting a hookup fee, it should include this charge in its tariff.

Attachment A, Section A to Staff Comments reflects proposed plant-in-service accounts, reasonable depreciable lives and the annual depreciation. These items are offset by the hookup fees recorded as Contributions in Aid of Construction and the presumption that water system capital is contributed by the owner/developer through the sale of lots. The amortization of these contributions is shown in Section B. We hereby adopt Attachment A, Sections A and B to Staff Comments.

Commission Findings: We find that the Company is not entitled to recognize any rate base in the establishment of rates. The capital investment in plant associated with the water system is contributed capital, and this capital investment will be excluded from rate base. IDAPA 31.36.01.103. Additionally, we find that the \$55,000 hookup fee contribution is an offset to the cost of the system, and should be reflected as an offset to the plant-in-service account.

II. Annual Expenses/Revenue Requirement

Because there is no rate base, we find that a just and reasonable rate should be based upon the Company's annual operating expenses. There is no history in the record of actual annual operating, maintenance, or administrative expenses, therefore we find it prudent and reasonable to rely upon the estimates of the Company's certified operator regarding the annual expenses for the operation and maintenance of the system.

Based on the certified operator's estimates, Staff prepared a pro forma schedule of annual expenses that the Company could reasonably incur in the operation of the water company. Those estimates are included in the Schedule of Annual Expenses and attached as Attachment B to Staff Comments. We hereby adopt Attachment B to Staff Comments, attached as Appendix A to this Order. Staff proposes to audit the Company's records for the two years ending December 31, 2007, in order to update the estimated annual operating, maintenance, or administrative expenses based on actual expenses, revenues, and any additional investments subject to recovery through rates. Because there is no rate base, no annual depreciation expense is included in the revenue requirement.

Commission Findings: We find the calculation of the Company's annual expenses and revenue requirement prepared by Commission Staff to be reasonable. We find it reasonable to rely on estimates from the Company's certified operator for annual expenses. As discussed earlier, all water system investment is recovered through the sale of lots and through hookup fees. We find the total estimated annual expenses for operation, maintenance, and administrative functions to total \$3,820. We find taxes including property, federal, and state to be approximately \$1,310 per year. Therefore, we find that the total annual expense of \$5,160 should be set as the Company's annual revenue requirement.

III. Rates

The Company proposes in its Application a monthly rate of \$40 per month plus \$4.00 per 1,000 gallons for usage over 10,000 gallons. Staff proposed a monthly rate of \$25 per month plus \$1.90 per 1,000 gallons of usage over 6,000 gallons. In the parties' Stipulation they agreed to rates of \$38.50 per month plus \$3.10 per 1,000 gallons of usage over 10,000 gallons per month.

Commission Findings: We find that the rates set forth in the parties' Stipulation to be just and reasonable, and provide the Company with an opportunity to recover its approved annual revenue requirement. It is slightly less than the amount set forth in the Water Service Agreement, which each customer executed with the Company upon purchase of their home/lot.

IV. Customer Relations/Tariff Issues

According to the Company's Application, purchasers of lots served by Kootenai Heights Water System signed a contract entitled "Kootenai Heights Water Service Agreement and Easement" (WSA) that includes a number of provisions regarding operation of the water company that are covered by or are in conflict with the Commission's Utility Customer Relations Rules and Utility Customer Information Rules. Provisions in the Company's tariff, which is filed with the Commission, must comply with our rules, the WSA notwithstanding. The Company and its customers cannot contract away the regulatory requirements of the Commission.

The Company's tariff should specify water rates, recurring and non-recurring charges, and the terms and conditions of providing service. The Commission's Utility Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*) govern, among other things, the collection of deposits, billing, disconnection of service, payment arrangements, and dispute resolution. Both

the Utility Customer Relations Rules and the Utility Customer Information Rules (IDAPA 31.21.02.000 *et seq.*) govern the provision of information to customers.

Commission Findings: We hereby approve the parties' Stipulation that the Company will adopt and implement the Commission's Utility Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*), the Commission's Utility Customer Information Rules (IDAPA 31.21.02.000 *et seq.*), and an accounting system consistent with information required by the Commission's annual report for small water companies (*Idaho Code* § 61-405). We also approve the provisions of the parties' Stipulation that allow the Company to charge a \$50 reconnection fee and a \$10 late payment fee. We find that certain portions of the Company's Water Service Agreement that it has executed with its customers either conflict with or address issues governed by the Commission's Utility Customer Relations Rules and Utility Customer Information Rules. IDAPA 31.21.01.000 *et seq.*, IDAPA 31.21.02.000 *et seq.* Pursuant to the Stipulation the Commission's Rules will govern in those instances. It is reasonable to require the Company to adopt and implement the Commission's Utility Customer Relations and Utility Customer Information Rules, as well as an accounting system consistent with the information required by the Commission's annual report for small water companies. A model tariff for small water companies is available, and Staff is directed to provide examples of documents and guidance to the Company upon request.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

Kootenai Heights Water System, Inc. is a water corporation providing water service to the public within the State of Idaho, *Idaho Code* §§ 61-124, 61-125, and is operating as a public utility. *Idaho Code* § 61-129.

The Commission has jurisdiction over this matter as authorized by Title 61 of the Idaho Code, and more particularly *Idaho Code* §§ 61-501, 61-502, 61-503, 61-520, and 61-523.

The Commission has the power and authority to establish initial rates, charges, classifications, practices, rules, and regulations that it finds to be just and reasonable. *Idaho Code* § 61-623.

ORDER

IT IS HEREBY ORDERED that the Motion for Approval of Stipulation is granted. The Stipulation of the parties, filed on May 24, 2007, is accepted and approved without change or alteration.

IT IS FURTHER ORDERED that the Proposed Order, issued on September 1, 2006, is hereby adopted and modified as set forth by the parties' Stipulation, and reflected now in this Order.

IT IS FURTHER ORDERED that Kootenai Heights Water System, Inc. is not entitled to recognize any rate base in the establishment of rates. The capital investment in plant associated with the water system is contributed capital, and this capital investment will be excluded from rate base. IDAPA 31.36.01.103. The \$55,000 hookup fee contribution is an offset to the cost of the system, and shall be reflected as an offset to the plant-in-service account.

IT IS FURTHER ORDERED that the Company's total annual expense of \$5,160 be set as the Company's annual revenue requirement.


IT IS FURTHER ORDERED that the Company is directed to adopt and submit a tariff containing the following rates and charges: a fixed monthly charge of \$38.50 and a volume charge of \$3.10 for every 1,000 gallons over 10,000 gallons per month; a \$50 reconnection fee; a \$10 late payment fee; and a \$5,000 hookup fee. The Company will bill on a semi-annual basis, during April and October each year. Any water usage over 10,000 gallons per month will be billed semi-annually. Monthly usage in excess of 10,000 gallons per month will be determined by dividing the total usage by the months of usage in the billing. Similarly, payment for usage in excess of 10,000 gallons per month will be divided equally over the six-month billing period.

IT IS FURTHER ORDERED that the Company is required to adopt and implement the Commission's Utility Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*), the Commission's Utility Customer Information Rules (IDAPA 31.21.02.000 *et seq.*), and an accounting system consistent with the information required by the Commission's annual report for small water companies. *Idaho Code* § 61-405.

IT IS FURTHER ORDERED that the Company shall submit tariffs conforming to this Order, as well as a sample bill and sample disconnection notice, no later than 30 days after the service date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this ^{4th}
day of June 2007.



PAUL KJELLANDER, PRESIDENT

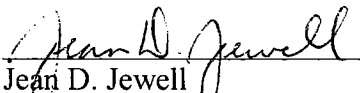


MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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